

REMARKS

We have canceled all of the previously pending claims and replaced them with claims 34-53, which include claims 34 and 50 as the independent claims. Each of the independent claims recites a surgical apparatus that includes at least the following features: i) a first member having a portion configured for attachment to the patient and a first coupling disposed proximate the portion configured for attachment; ii) the first member defining a passageway for accessing the body cavity through the incision; iii) a second member including a second coupling configured for releasable attachment to the first coupling; and iv) the second member further including a flexible portion configured to extend into the passageway and surround a surgeon's arm passing through the passageway.

The action rejected some of the previously pending claims as anticipated by each of Cuschieri (U.S. Patent 5,480,410), Golub (U.S. Patent 5,514,133), and Charowsky (U.S. Patent 4,998,538). We submit that the features recited in the new claims distinguish each of these prior art patents. For example, we can find no teaching in any of these prior art patents of a second member including a flexible portion configured to extend into a passageway defined by a first member and surround a surgeon's arm passing through the passageway, wherein the first and second members also include couplings configured for releasable attachment.

The action also rejected the previously pending claims for obviousness-type double patenting in view claims 1-29 of U.S. Patent No. 5,653,705. We submit that the double patenting rejection may not be applicable to the new set of claims. In any case, we ask that the Examiner allow us to defer the decision as to whether to file a terminal disclaimer to obviate the double patenting rejection until he indicates that the present claims are otherwise allowable.

Applicant : Roger A. de la Torre et al.
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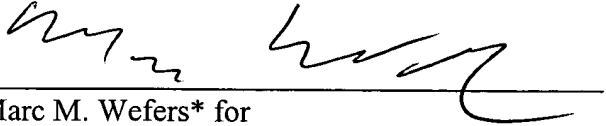
Attorney's Docket No.: 00167-293004 / 02-31-0384

Applicant asks that all claims be allowed. Enclosed is a \$400 check for the Petition for Extension of Time fee. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: _____

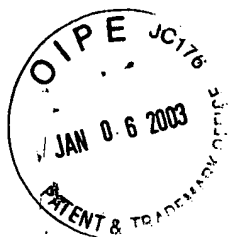
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***See attached document certifying that Marc M. Wefers has limited recognition to practice before the U.S. Patent and Trademark Office under 37 C.F.R. §10.9(b).**



BEFORE THE OFFICE OF ENROLLMENT AND DISCIPLINE
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Expires: January 7, 2003

Harry I. Moatz
Director of Enrollment and Discipline

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